

ZONING BOARD OF APPEALS

CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

SUBMIT TO:
Planning Department
133 William Street
Room 303
New Bedford, MA 0274

Appeal Nr. 4188

Petition for a **VARIANCE**

Date: 5-27-15

The undersigned petitions the Board of Appeals to grant a Variance in the manner and for the reasons hereinafter set forth under the provisions of the Zoning Ordinance to the following described premises:

1. Application Information

Street Address:	<u>120-122 Oakdale Street</u>		
Assessor's Map(s):	<u>74</u>	Lot(s)	<u>68 & 95</u>
Registry of Deeds Book:	<u>4269</u>	Page:	<u>350</u>
Zoning District:	<u>Residence B</u>		
Applicant's Name (printed):	<u>Rockdale West, LLC</u>		
Mailing Address:	<u>One Lakeshore Center</u>	<u>Bridgewater</u>	<u>MA 02324</u>
	(Street)	(City)	(State) (Zip)
Contact Information:	<u>508-999-0600 csaunders@saunderslawllp.com</u>		
	Telephone Number	Email Address	

CITY CLERK'S OFFICE
NEW BEDFORD, MA
2015 MAY 29 10:31 AM

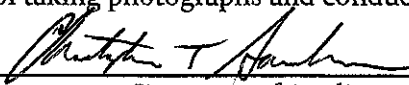
Applicant's Relationship to Property: Owner Contract Vendee Other _____

List all submitted materials (include document titles & volume numbers where applicable) below:

- 1) Variance Application & Exhibit A; 2) Appendix & deed; 3) Existing Conditions Plan;
4) Proposed Conditions Plan; 5) Abutter's List; 6) Plot Plan; 7) Building Permit Rejection

By signing below, I/we acknowledge that all information presented herein is true to the best of my/our knowledge. I/we further understand that any false information intentionally provided or omitted is grounds for the revocation of the approval(s). I/we also give Planning Division staff and Zoning Board Members the right to access the premises (both interior and exterior) at reasonable times and upon reasonable notice for the purpose of taking photographs and conducting other visual inspections.

5-27-15
Date


Signature of Applicant

2. Dimensions of Lot(s) 79.69 100 Area 7,344
 Frontage Depth Sq. Ft.

3. Number of buildings on lot one

4. Size of existing buildings 3,055

5. Size of proposed buildings 2,660

6. Present use of premises multi-family residence

7. Proposed use of Premises duplex

8. Extent of proposed alterations Burned building to be razed and rebuilt

9. Existing number of dwelling units & bedrooms 2 Proposed 4

10. For commercial uses, please complete the following:

	Existing	Proposed
a) Number of customers per day:	_____	_____
b) Number of employees:	_____	_____
c) Hours of operation:	_____	_____
d) Days of operation:	_____	_____
e) Hours of deliveries:	_____	_____
f) Frequency of deliveries: <input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other: _____		

11. Planning Board Site Plan Review and Special Permits:

N/A The applicant is also requesting Site Plan Review and Special Permit(s) from the Planning Board. If so, specify below:

12. Have plans been submitted to the Department of Inspectional Services? Yes

13. Has the Department of Inspectional Services refused to issue a permit? Yes

14. Explain what modifications are proposed that would require the requested Variance:
 See Exhibit A

15. State your hardship in accordance with Mass General Laws Chapter 40A Section 10. (Reference the attached "Required Findings For Granting a Variance").

See Exhibit A

16. Complete for ALL the portions for which you are requesting a Variance:

	<u>Existing</u>	<u>Allowed/Required</u>	<u>Proposed</u>
Lot Area (sq ft)	7,344	10,000	7,344
Lot Width (ft)	79.69	100	79.69
Number of Dwelling Units	2	2	2
Total Gross Floor Area (sq ft)	3,055		2,660
Residential Gross Floor Area (sq ft)	3,055		2,660
Non-Residential Gross Floor Area (sq ft)	0		0
Building Height (ft)	n/a		
Front Setback (ft)	n/a		
Side Setback (ft)	n/a		
Side Setback (ft)	n/a		
Rear Setback (ft)	25	30	13.78
Lot Coverage by Buildings (% of Lot Area)			
Permeable Open Space (% of Lot Area)			
Green Space (% of Lot Area)			
Off-Street Parking Spaces	0	4	4
Loading Bays	n/a		
Number of Ground Signs	n/a		
Height of Ground Sign	n/a		
Proximity of Ground Sign to Property Line	n/a		
Area of Wall Sign (sq ft)	n/a		
Number of Wall Signs	n/a		

17. Verification of Ownership. By signing this application the petitioner is stating that they have read and understand this application and the accompanying instructions and information. If petition is granted, the approvals are specific to the plans submitted, unless the Board states otherwise. Also, if granted, that the Variance must be recorded and acted upon within one year.

This section is to be completed & signed by the property owner(s):

I hereby authorize the following Applicant: _____

at the following address: _____

to apply for: _____

on premises located at: _____

in current ownership since: _____

whose address is: _____

for which the record title stands in the name of: _____

whose address is: _____

by a deed duly recorded in the:

Registry of Deeds of County: _____ Book: 4269 Page: 350

OR Registry District of the Land Court, Certificate No.: _____ Book: _____ Page: _____

I/we acknowledge that all information presented herein is true to the best of my/our knowledge. I/we further understand that any false information intentionally provided or omitted is grounds for the revocation of the approval(s). I/we also give Planning Division staff and Zoning Board Members the right to access the premises (both interior and exterior) at reasonable times and upon reasonable notice for the purpose of taking photographs and conducting other visual inspections.

5-29-15 Christopher T. Amundson, Attorney for Fockdale West, LLC
Date Signature of Land Owner (If authorized Trustee, Officer or Agent, so identify)

CITY CLERK'S OFFICE
NEW BEDFORD, MA
2015 MAY 29 P 3:12
CITY CLERK
7

EXHIBIT A

Rockdale West LLC, (hereinafter referred to as "Applicant"), is the owner of property located at 120-122 Oakdale Street, New Bedford, Massachusetts, and more particularly identified in the City of New Bedford Assessors' Map 74, Lots 68 and 95. The lots contain approximately 7,344 square feet of land and 79.69 feet of frontage along Oakdale Street. The property contained two connected duplexes on Map 74, Lots 67, 68, and 95 containing 5,956 square feet. The structures were destroyed by fire in October 2014. The applicant intends to reconstruct two separate duplexes, one on lot 67 and one on Lots 68 and 95 and needs to seek a variance to allow for the reconstruction with a change in the buildings footprint.

ARGUMENT

In accordance with Massachusetts General Law Chapter 40A, Section 10, the Applicant seeks a variance from the City of New Bedford Zoning By-Laws. The Applicant seeks a variance from the requirements from the dimensional regulations pursuant to section 2700, 2710, 2720, 2750, and 2753 of the Zoning By-Laws. In order to be granted the variances, the Applicant must prove the following elements:

1. That they are required, due to the existence of circumstances on account of soil conditions, shape or topography, especially affecting the land or structures, but not affecting generally the Zoning District.
2. That literal enforcement of the provisions of the By-Law would involve substantial hardship to the Petitioner.

3. That the variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-Law.

The Applicant requires this variance because of the unique character of the land, especially the shape of the land. The site consisted of two duplexes that were situated on a lot line, and were connected by a common hallway. The duplexes were destroyed by fire in October 2014. The applicant intends to raze the burned structures and rebuild two duplexes that will not be connected with a common hallway. The proposed project will include a new driveway that will have the capacity to provide four off-street parking spaces as required by the City of New Bedford Zoning By-Laws. The former structure contained no off-street parking. The new set-backs on the rebuilt structure will be 12.5 and 11.19 feet in conformity with zoning. There existed a 25 foot rear set-back on the burned structure and the proposed new structure contains a 13.78 foot rear set-back. The property contains 79.69 feet of frontage along Oakdale Street.

While the Applicant believes the two lots are grandfathered nonconforming lots and would need a Special Permit to reconstruct the destroyed structure with an increase in area, it seeks a variance from the requirements (1) that the total lot size be 10,000 square feet, (2) that the lot contains 100 feet of frontage and (3) that the lot have a 30 foot rear yard set-back based on the Building Commissioner's determination. The proposed new lot and duplex contains 7,344 square feet of land, has 79.69 feet of frontage and has a 13.78 rear set-back.

A hardship exists for the variance given that it would be financially impractical and functionally impractical to rebuild a burned structure to 1970's building standards. The structure was constructed in the 1970's, at a time when duplexes were allowed to be constructed on or near lot lines. The ordinances were subsequently changed to provide set-backs between neighbors for various reasons. This reconstruction of the burned structure will allow the applicant to separate its two duplexes that were formally connected by a common hallway, and provide separation between the structures. The new duplex will be situated slightly back from its existing footprint to allow for the creation of driveways in the front yard that will provide four off-street parking spaces. The footprint of the building was moved 12 feet back to create the needed off-street parking. The new construction will also have an overall positive impact on the neighborhood as it will allow for additional off-street parking to service the units. The proposed new lot and duplex contains 7,344 square feet of land, has 79.69 feet of frontage. These dimensions existed prior to the fire and the Applicant should be allowed as a matter of right to reconstruct on the grandfathered non-conforming undersized lots. In the alternative, the applicant seeks a variance.

The Applicant respectfully requests this Zoning Board of Appeals grant its variances pursuant to the Site Plan submitted.

Respectfully Submitted,
Rockdale West LLC
By its attorneys,
SAUNDERS & SAUNDERS, LLP

By 
CHRISTOPHER R. SAUNDERS

APPENDIX

- (1) Owner's/Landlord's Name Rockdale West, LLC
- (2) Title Reference to Property Book 4269, Page 350

(Attach copy of Deed, Certificate of Title & most recent Recorded Plans showing affected lot or lots)

- (3) If the Applicant is Not the Owner, Provide:
1. Notarized authorization letter from owner to tenant or buyer for application for this permit, on letterhead.
 2. Copy of Purchase & Sale Agreement or lease, where applicable.
 3. Copy of the deed or deeds of abutting parcels if said parcels have been held in common ownership with the subject property at any time since January 1, 1976.

BK 4269 PG 350
12/01/98 03:53 DOC. 53185
Bristol Co. S.D.

QUITCLAIM DEED

Rockdale West at New Bedford, a Massachusetts limited partnership, with a mailing address of Batterymarch Park II, Quincy, Massachusetts 02169, for our (\$1.00) Dollar and of good and valuable consideration paid, grants to Rockdale West LLC, a Georgia limited liability company, with a mailing address of Batterymarch Park II, Quincy, Massachusetts 02169, quitclaim covenants, the land in New Bedford, Bristol County, Massachusetts, described in Exhibit A attached hereto, together with the buildings and improvements thereon (the "Premises").

The Premises are conveyed subject to all agreements, covenants and agreements of record, to the extent same are in force and applicable, including a certain mortgage to Boston Private Bank and Trust Company in the original principal amount of \$5,100,000.00, and recorded with Bristol South District Registry of Deeds in Book 4121, Page 17.

The remaining consideration for this deed, exclusive of any encumbrances remaining on the Premises being conveyed herein, is less than one hundred (\$100.00) dollars and, therefore, no deed stamps are required to be affixed thereto.

Grantor's title reference: Deed dated January 17, 1979, and recorded with said Deeds in Book 1656, Page 559.

Property address: 42 West Hill Road, New Bedford, Massachusetts.

Witness our hand and seal this 23 day of November, 1998.

ROCKDALE WEST AT NEW BEDFORD

By: THE CLAREMONT COMPANY, INC.
its General Partner

By: [Signature]
Patrick G. Carney, its President and
Treasurer

COMMONWEALTH OF MASSACHUSETTS

NORFOLK

November 23, 1998

Then personally appeared the above named Patrick G. Carney, President and Treasurer of the Claremont Company, Inc., General Partner of Rockdale West at New Bedford, and acknowledged the foregoing instrument to be the free act and deed of Rockdale West at New Bedford, before me,

[Signature]
Notary Public

Printed name: Suzanne M. Jersey

My Commission expires: January 1999

1634132841432



Bristol South
Registry of Deeds

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Bristol South
Registry of Deeds

Not for Official Use

Not for Official Use

Official Use

Not for

Not for

BK 4269 351

Exhibit A

Legal Description

Seven (7) parcels of land in New Bedford, Bristol County, Massachusetts, bounded and described as follows:

Parcel 1

Beginning at a point at the Southeastly corner of Lot 20 shown on the first plan hereinafter mentioned, at land now or formerly of Fask Oliver, Jr., said point of beginning being also located at the Westerly sideline of Route 140;

Thence SOUTH 84° 14' 30" WEST 215.60 feet by said land of Oliver to a drill hole at an angle point and land now or formerly of the Roman Catholic Bishop of Fall River;

Thence NORTH 87° 40' 54" WEST 563.02 feet on said Bishop's land;

Thence NORTH 87° 59' 50" WEST 424.75 feet by more land of said Roman Catholic Bishop of Fall River;

Thence turning an angle to the right and running NORTH 3° 25' 10" EAST 138.59 feet to the Southerly sideline of Bryant Lane;

Thence SOUTH 77° 12' 06" EAST 8.18 feet;

Thence SOUTH 86° 34' 50" EAST 781.54 feet;

Thence NORTH 76° 35' 36" EAST 95.83 feet;

Thence by a right curve of 20 foot radius 25.62 feet;

Thence by a left curve of 50 foot radius 220.53 feet;

The last five courses are by Bryant Lane;

Thence NORTH 84° 14' 24" EAST 314.04 feet by land now or formerly of Alice Coggeshal;

Thence by the Westerly sideline of Route 140 along a left curve of 1200 foot radius 240 feet more or less to the point of beginning.

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Not for

Parcel I is shown as Lots 1 through 22 inclusive and Lots 91 and 92 on a plan entitled "Plan of Land in New Bedford, Mass prepared for Rockdale West at New Bedford" dated August 22, 1972 and recorded at the Bristol County Registry of Deeds (South District) in Book 88, Page 72.

Parcel II

Beginning at the Southeasterly corner of the premises herein described, on the Northerly sideline of Bryant Lane, approximately 314.04 feet from the Westerly sideline of Route 140, said point being the Southeasterly corner of Lot 1 show on said plan;

Thence SOUTH 76° 35' 36" WEST 131.90 feet by the Northerly sideline of Bryant Lane to a point of curvature;

Thence by a right curve of 20 foot radius 347.1 feet;

Thence NORTH 3° 56' 20" WEST by the Easterly sideline of Carriage Drive 673.21 feet;

Thence by a curve left of 974.22 radius by the Easterly sideline of Carriage Drive, 29 feet;

Thence NORTH 84° 57' 02" EAST 119.88 feet to land now or formerly of Dalbec Realty;

Thence SOUTH 06° 40' 15" EAST by land now or formerly of Coggeshal, 703.44 feet to the point of beginning.

Parcel II is shown as Lots 23 through 36 inclusive on said plan.

Parcel III

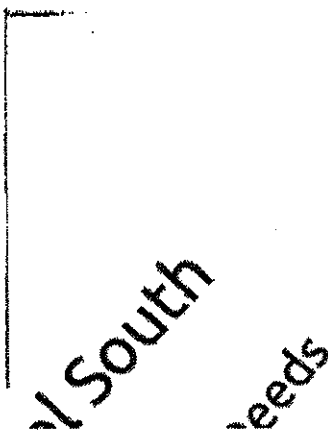
Beginning at a point on the Easterly sideline of Carriage Drive, being the Southwesterly corner of Lot 40 on said plan;

Thence running by the Easterly sideline of Carriage Drive, by a left curve of radius 974.22 feet, 75.20 feet to a point of curvature;

Thence running by a right curve of 20 foot radius, 34.65 feet;

Thence NORTH 73° 35' 20" EAST 239.79 feet by the Southerly line of Oakdale Street;

Thence SOUTH 16° 24' 40" EAST 99.35 feet;



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Not for

BK 4269 PG 853

Thence SOUTH 83° 59' 20" WEST 80.94 feet;

Thence SOUTH 4° 00' 40" EAST 40 feet;

Thence SOUTH 82° 29' 20" WEST 119.91 feet;

Thence SOUTH 83° 14' 20" WEST 44.21 feet to the point of beginning.

The last five courses are by land now or formerly of Dalbee Realty.

Parcel III is shown as Lots 37A, 37, 38, 39 and 40 on said plan.

Parcel IV

Beginning at the Southwest corner of Lot 10 shown on said plan, at a point of tangency on the Northerly sideline of Bryant Lane;

Thence by a right curve of 20 foot radius, 29.30 feet;

Thence NORTH 7° 38' 53" WEST 176.16 feet by the Easterly sideline of West Hill Road;

Thence by a right curve of 20 foot radius, 33.84 feet;

Thence SOUTH 85° 42' 3" EAST 507.49 feet by the Southerly line of Bayberry Road;

Thence by a right curve of 20 foot radius, 28.34 feet;

Thence SOUTH 3° 56' 20" EAST 167.73 feet by the Westerly sideline of Carriage Drive;

Thence by a right curve of 20 foot radius, 39.98 feet;

Thence NORTH 86° 34' 50" WEST by the Northerly sideline of Bryant Lane, 510.76 feet to the point of beginning.

Parcel IV is shown as Lots 93 to 112 inclusive on said plan.

Parcel V

Beginning at the Southwesterly corner of Lot 77 on said plan, at a point of tangency on the Northerly sideline of Bayberry Road;

Thence by a right curve of 20 foot radius, 28.99 feet;

Thence NORTH 2° 38' 53" WEST 250.64 feet by the Easterly sideline of West Hill Road;

Thence by a right curve of 20 foot radius, 30.42 feet;

Thence NORTH 84° 29' 30" EAST 494.37 feet by the Southerly sideline of Cherry Tree Lane;

Thence by a right curve of 20 foot radius, 31.61 feet;

Thence SOUTH 3° 56' 20" EAST 336.71 feet by the Westerly sideline of Carriage Drive;

Thence by a right curve of 20 foot radius, 34.20 feet;

Thence NORTH 85° 42' 3" WEST 509.17 feet by the Northerly sideline of Bayberry Road to the point of beginning;

Parcel V is show as Lots 67 through 90 inclusive and Lot 113 on said plan.

Parcel VI

Beginning at the Southwesterly corner of Lot 5 on said plan, at a point of tangency on the Northerly sideline of Cherry Tree Lane;

Thence by a right curve of 20 foot radius, 32.41 feet;

Thence NORTH 2° 38' 53" WEST 251.62 feet by the Easterly sideline of West Hill Road;

Thence by a right curve of 20 foot radius, 26.61 feet;

Thence NORTH 73° 35' 20" EAST 427.99 feet by the Southerly sideline of Oakdale Street;

Thence by a right curve of 20 foot radius, 27.86 feet;

Thence by a right curve of radius 924.22 feet, 346.99 feet by the Westerly sideline of Carriage Drive;

Thence by a right curve of 20 foot radius, 31.26 feet;

Thence SOUTH 84° 29' 30" WEST, by the Northerly sideline of Cherry Tree Lane, 492.19 feet to the point of beginning;

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Registry of Deeds

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BK 4269 PG 855

Parcel VI is shown as Lots 41 through 66 inclusive and Lot 114 on said plan.

Parcel VII

Beginning at the Southwesterly corner of Lot 115 shown on the Plan and after mentioned on the Northerly sideline of Bryant Lane;

Thence NORTH 12° 47' 54" EAST 106.06 feet;

Thence SOUTH 77° 12' 06" EAST 117.73 feet;

Thence NORTH 2° 38' 56" WEST 10.45 feet to the Southerly sideline of Bayberry Road;

Thence SOUTH 85° 42' 03" EAST by the Southerly sideline of Bayberry Road, 89.06 feet;

Thence by a right curve of 20 foot radius, 28.99 feet;

Thence SOUTH 72° 38' 53" EAST 10.52 feet;

Thence by a right curve of 20 foot radius, 33.53 feet;

Thence NORTH 86° 34' 50" WEST 97.99 feet by the Northerly sideline of Bryant Lane;

Thence NORTH 77° 12' 06" WEST 117.73 feet by the Northerly sideline of Bryant Lane to the point of beginning.

Parcel VII is shown as Lots 115 through 120 inclusive on plan entitled "Plan of Land in New Bedford, Mass. prepared for Rockdale West at New Bedford, Inc." dated December 6, 1972 and recorded at the Bristol County Registry of Deeds (South District) in Plan Book 89, Page 72.

Together with the right to use all roads shown on said plans for all purposes for which streets and roads are used in the City of New Bedford in common with others entitled to use the same.

End of Legal Description.
1619923641452

Bristol South
Registry of Deeds

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Not for Official Use

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Official Use

I, *Carol Saunders*, Administrative Assistant to the Board of Assessors of the City of New Bedford, do hereby certify that the names and addresses as identified on the attached "abutters list" are duly recorded and appear on the most recent tax.

Date: 5/29/2015

Card 47

SUBJECT PROPERTY:

MAP ~~74~~ 74 LOT 68 & 95

LOCATION 120-122 Oakdale Street

OWNER'S NAME Rockdale West, LLC

MAILING ADDRESS One Lake Shore Center, Bridgewater, MA 02324

CONTACT PERSON Christopher T. Saunders, Esq.

TELEPHONE NUMBER 508-999-0600

EMAIL ADDRESS csaunders@saunderslawllp.com

REASON FOR REQUEST

Variance Application

PLANNING
MAY 29 2015
DEPARTMENT

CITY CLERK

2015 MAY 29 P 3:12

CITY CLERKS OFFICE
NEW BEDFORD, MA

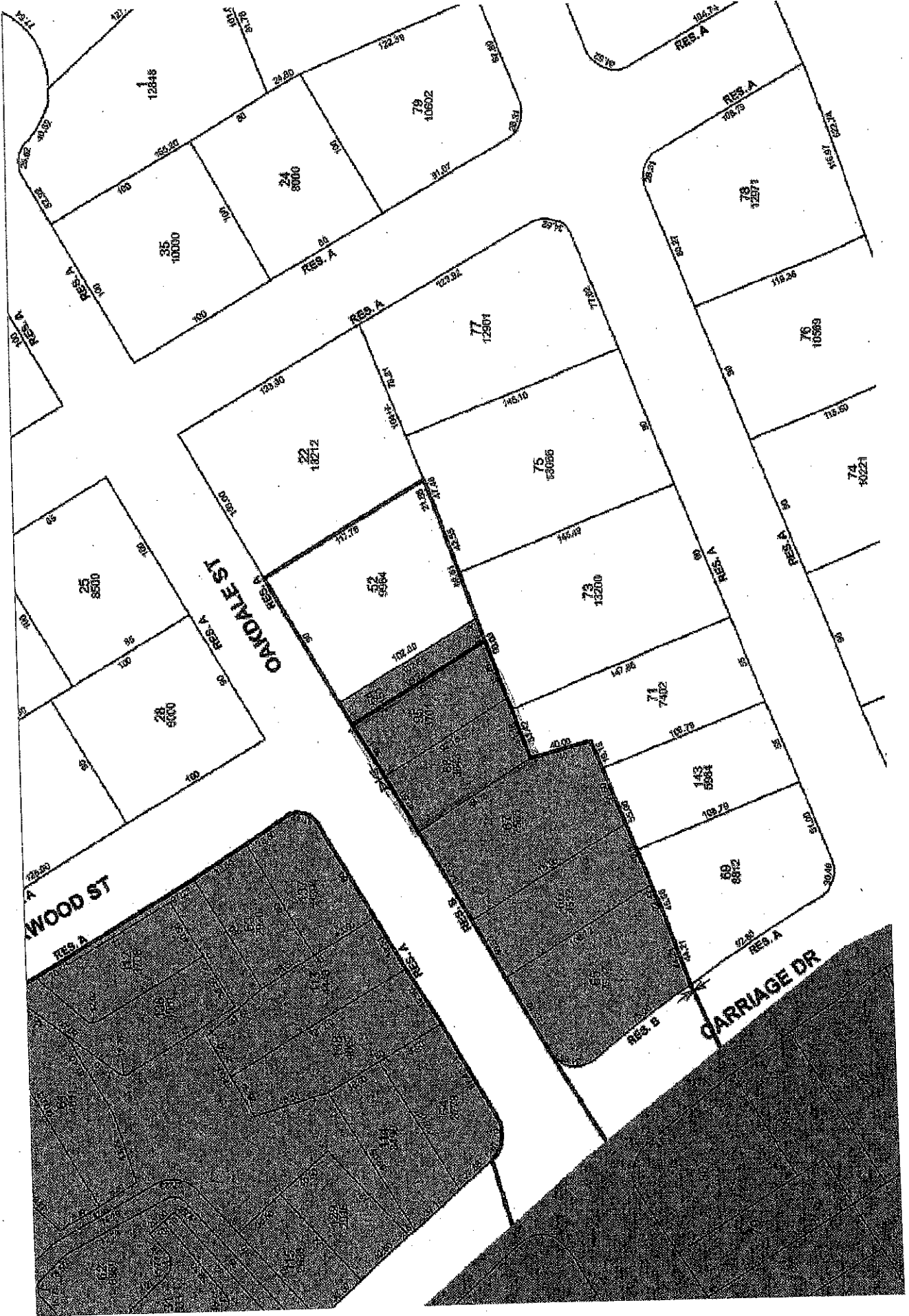
May 28, 2015
 Dear Applicant,

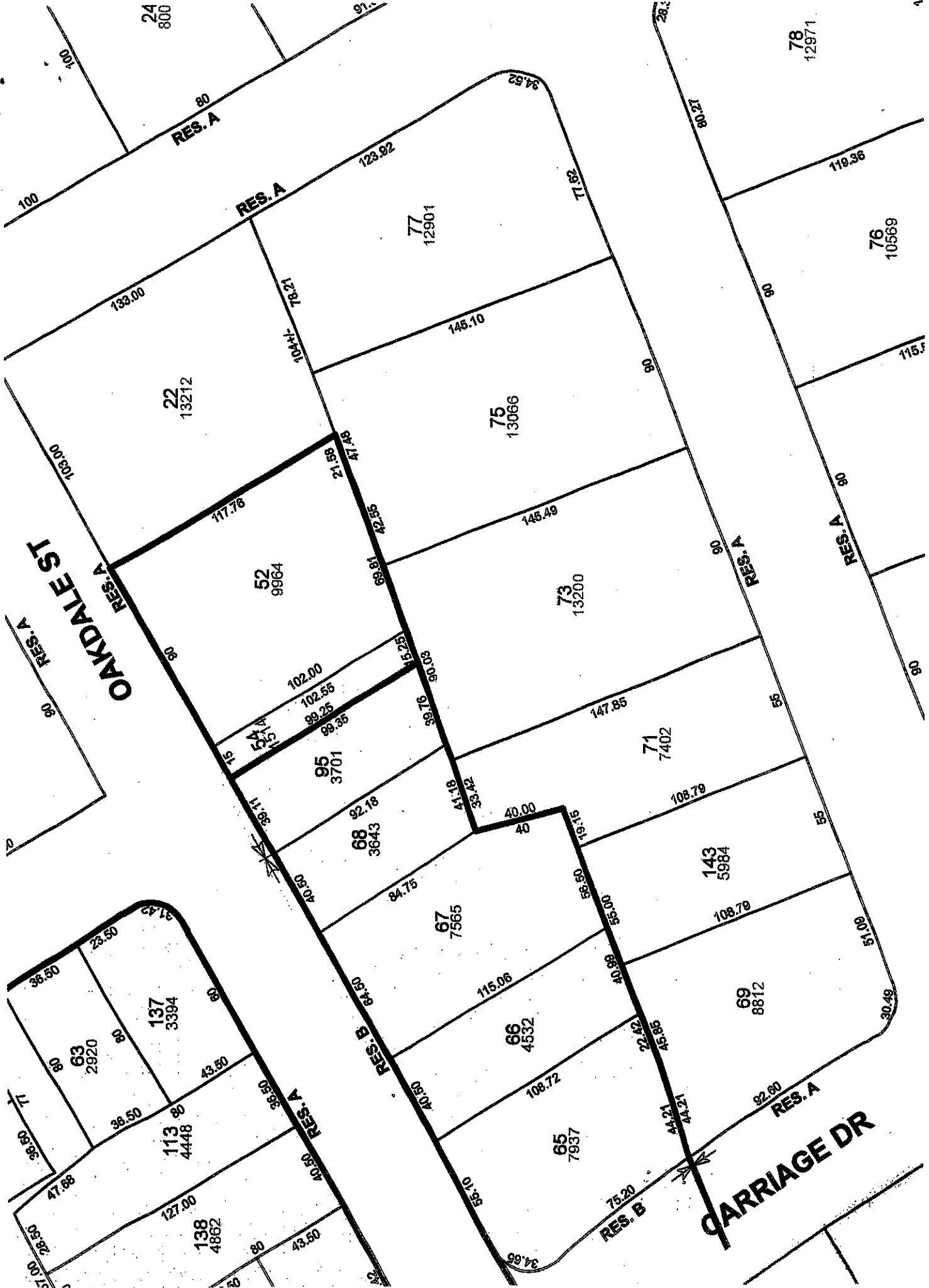
Please find below the List of Abutters within 300 feet of the property known as 120-122 Oakdale Street (74-68 & 95) The current ownership listed herein must be checked and verified by the City of New Bedford Assessor's Office. Following said verification, the list shall be considered a Certified List of Abutters.

Please note that multiple listed properties with identical owner name and mailing address shall be considered duplicates, and shall require only 1 mailing. Additionally, City of New Bedford-Owned properties shall not require mailed notice.

Parcel	Location	Owner and Mailing Address
73-68	148 BRYANT LN 139-141	ROCKDALE WEST LLC, C/O CLAREMONT COMPANY ONE LAKE SHORE CTR BRIDGEWATER, MA 02324-1065
73-2	153 OAKDALE ST 177-179	BAYBERRY AT NEW BEDFORD, 1 LAKESHORE CENTER BRIDGEWATER, MA 02324-1065
74-52	114 OAKDALE ST	SILVA JOSEPH S JR, SILVA BARBARA A 114 OAKDALE ST NEW BEDFORD, MA 02740 -1959
74-69	76 CARRIAGE DR	TEJEDA EDDY G, 76 CARRIAGE DRIVE NEW BEDFORD, MA 02740-1872
74-73	63 PAMELA DR	PINE JOE, DUARTE MARIA L 63 PAMELA DR NEW BEDFORD, MA 02740-1924
74-143	69 PAMELA DR	BRIZIDA JOHN M JR, BRIZIDA ANA I 69 PAMELA DR NEW BEDFORD, MA 02740-1924
74-71	67 PAMELA DR	BARNES MARIE E, 67 PAMELA DR NEW BEDFORD, MA 02740 -1924
74-75	57 PAMELA DR	DASILVA ADRIANO F, DASILVA MARIA 57 PAMELA DR NEW BEDFORD, MA 02740 -1924
74-22	106 OAKDALE ST	ARRUDA MANUEL, 15 PORTLAND STREET NEW BEDFORD, MA 02744-1214
74-28	502 SHERWOOD ST	BURT DEBRA M, BURT DAVID N 502 SHERWOOD ST NEW BEDFORD, MA 02740 -1953







OAKDALE ST

CARRIAGE DR

RES. A

RES. A

RES. A

RES. A

RES. B

RES. B

24
800

78
12971

77
12901

76
10569

22
13212

75
13066

52
9964

73
13200

95
3701

71
7402

68
3643

143
5984

67
7565

66
4532

137
3394

69
8812

113
4448

65
7937

138
4862

75.20

RES. A

100

80

91.

28.

80.21

119.36

133.00

78.21

123.92

71.92

94.52

109.00

117.76

85.12

42.53

145.10

145.49

115.5

RES. A

RES. A

80

102.00

102.55

99.25

98.35

152.25

89.16

90.03

147.85

55

90

39.71

92.18

40.50

84.75

41.18

39.42

40.00

108.79

55

31.43

23.50

38.50

38.50

43.50

38.50

40.50

40.50

35.10

34.66

115.06

108.72

22.42

45.85

108.79

51.00

30.49

38.50

47.88

38.50

127.00

43.50

80

43.50

42

75.20

92.80

1